

armed force whose retired pay is computed under section 1402(d) or 1402a(d) of this title is entitled, upon his release from active duty, to the grade equivalent to the grade or rank upon which his retired pay is based under that section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 105; Pub. L. 96-342, title VIII, § 813(b)(3)(C), Sept. 8, 1980, 94 Stat. 1104.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1373	37:272(d) (last proviso, as applicable to retired grade). 37:279 (as applicable to 37:272(d) (last proviso)).	Oct. 12, 1949, ch. 681, §§ 402(d) (last proviso, as applicable to retired grade), 409 (as applicable to § 402(d) (last proviso)), 63 Stat. 819, 823.

The applicability of the rule stated in 37:279 to all members whose retired pay is computed under 37:272(d) (last proviso) is based on an opinion of the Judge Advocate General of the Army (JAGA 1953/3305, 24 Apr. 1953).

Editorial Notes

AMENDMENTS

1980—Pub. L. 96-342 inserted reference to section 1402a(d) of this title.

[§ 1374. Repealed. Pub. L. 103-337, div. A, title XVI, § 1662(k)(2), Oct. 5, 1994, 108 Stat. 3006]

- Sec.
 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index.
 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.
 1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980.
 1403. Disability retired pay: treatment under Internal Revenue Code of 1986.
 1404. Applicability of section 8301 of title 5.
 1405. Years of service.
 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.
 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.
 1407a. Retired pay base: officers retired in general or flag officer grades.
 1408. Payment of retired or retainer pay in compliance with court orders.
 1409. Retired pay multiplier.
 1410. Restoral of full retirement amount at age 62 for certain members entering on or after August 1, 1986.
 1411. Rules of construction.
 1412. Administrative provisions.
 [1413. Repealed.]
 1413a. Combat-related special compensation.
 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation.
 1415. Lump sum payment of certain retired pay.

Editorial Notes

AMENDMENTS

2015—Pub. L. 114-92, div. A, title VI, § 633(a)(2), Nov. 25, 2015, 129 Stat. 850, added item 1415.

2011—Pub. L. 111-383, div. A, title VI, § 632(b)(2), Jan. 7, 2011, 124 Stat. 4240, added item 1412 and struck out former item 1412 "Rounding to next lower dollar".

Formula No.	For sections	Column 1 Take	Column 2 Multiply by	Column 3 Add
4	580 1263 1293 1305	Retired pay base as computed under section 1406(b) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.	
5	633 634 635 636 1251 1252 1253	Retired pay base as computed under section 1406(b) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.	

¹ Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.

(b) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 106; Pub. L. 85-422, §§ 6(7), 11(a)(2), May 20, 1958, 72 Stat. 129, 131; Pub. L. 88-132, § 5(h)(1), Oct. 2, 1963, 77 Stat. 214; Pub. L. 89-132, § 6, Aug. 21, 1965, 79 Stat. 547; Pub. L. 90-207, § 3(1), Dec. 16, 1967, 81 Stat. 653; Pub. L. 92-455, § 1, Oct. 2, 1972, 86 Stat. 761; Pub. L. 96-342, title VIII, § 813(b)(1), Sept. 8, 1980, 94 Stat. 1102; Pub. L. 96-513, title

of years of service credited to him under section 1208" in formula numbers 1 and 2 and "section 1409" for "section 1409(a)" in formula numbers 4 and 5.

2013—Subsec. (a). Pub. L. 112-239 substituted "columns 1, 2, and 3," for "columns 1, 2, 3, and 4," in introductory provisions.

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amendments made by this section [amending this section and sections 1402 and 1402a of this title] shall apply only with respect to persons who first become entitled to retired or retainer pay under such subtitle after that date.”

EFFECTIVE DATE OF 1994 AMENDMENT

cable to the computation of that officer's retired pay if the provisions of paragraph (2) of section 203(a) of title 37, United States Code, as added by subsection (d), had taken effect on April 30, 1999."

SIX-MONTH ROUNDING RULE

Marine Corps Reserve, on the effective date of this Act [June 1, 1958] shall have his retired pay or retainer pay computed on the basis of the rates of basic pay set forth in the Career Compensation Act of 1949, as amended by this Act, or on the rates of basic pay set forth in the Career Compensation Act of 1949 on the day before the effective date of this Act, plus 6 per centum of that pay, whichever is greater.

(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

(3) MEMBERS COVERED.—Paragraphs (1) and (2) apply to a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under

index for the three months comprising that quarter.

(Added Pub. L. 88-132, § 5(g)(1), Oct. 2, 1963, 77 Stat. 213; amended Pub. L. 89-132, § 5(b), Aug. 21, 1965, 79 Stat. 547; Pub. L. 9

1999—Subsec. (b)(1). Pub. L. 106-65, § 643(b)(1)(A), substituted “INCREASE REQUIRED” for “IN GENERAL” in heading.

Subsec. (b)(2). Pub. L. 106-65, § 1066(a)(10), struck out subpar. (A) designation and heading “GENERAL RULE

Subsec. (f). Pub. L. 101-189, §651(b)(1)(C), inserted "or former member" after "member" in second sentence.

1988—Subsec. (f). Pub. L. 100-456 inserted after second sentence "However, in the case of a member who, after initially becoming eligible for retired

calendar month after the calendar month immediately preceding the effective date of Pub. L. 89-132 has increased over the base index (that for the calendar month immediately preceding the effective date of Pub. L. 89-132 or, if later, that used as the basis for the most recent adjustment of retired and retainer pay under this subsection).

Subsecs. (c) to (e). Pub. L. 90-207 added sub

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-179, § 2, Dec. 30, 1969, 83 Stat. 837, provided that: “The provisions of this Act [amending this section] become effective on October 31, 1969.”

“(c) No amounts shall be paid, as the result of the enactment of this section, for any period prior to the date of enactment of this section [Dec. 28, 1973].”

RETROACTIVE ADJUSTMENT OF RETIRED OR RETAINER PAY OF PERSONS ENTITLED THERETO AFTER NOVEMBER 30, 1966

pay based on the monthly basic pay to which he would be entitled if he were on active duty in that higher grade.

(e) Notwithstanding subsection (a), a member covered by that subsection may elect, upon his release from active duty, to have his retired pay or retainer pay—

forces before the date of the enactment of the Department of Defense Appropriation Act, 1981” wherever appearing.

Pub. L. 96-342 inserted “who first became a member of the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981, and” after “of an armed force” wherever appearing.

the enactment of this Act [Oct. 19, 1984], whichever is later.”

RETIRED PAY AND RETAINER PAY; PROHIBITION AGAINST RECOMPUTATION UNDER 1963 PAY RATES; EXCEPTIONS; INCREMENTS BASED ON THE GREATER OF A 5 PERCENT INCREASE OR RECOMPUTATION UNDER

§ 1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980

(a) IN GENERAL.—A member of an armed force—

Stat. 4239; Pub. L. 115-232, div. A, title VIII, § 809(a), Aug. 13, 2018, 132 Stat. 1840.)

Editorial Notes

1980—Pub. L. 96-513 substituted “the Internal Revenue Code of 1954” for “title 26” in section catchline and text.

Pub. L. 96-342 inserted reference to section 1402a(d) of this title.

enactment of the National Defense Authorization Act for Fiscal Year 1995,” for “section 972 of this title”, and added par. (2).

1994—Subsec. (a)(3). Pub. L. 103-337, § 1662(j)(3), substituted

For a member entitled to retired pay under section:	The retired pay base is:
633 634 635 636 1251 1252 1253	Monthly basic pay ² of member's retired grade. ³

¹ Compute at rates applicable

(h) COMMISSIONED CORPS OF PUBLIC HEALTH SERVICE.—In the case of an officer who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g), 212(a)), the retired pay base is determined as follows:

(1) MANDATORY RETIREMENT.—If the officer is retired under section 210(g) of such Act, the retired

